

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on April 14, 2003.

The IRO reviewed prescribed medications: Tramadol, Topamax, Celebrex, Propn/Apap, rendered on 7/2/02 and 8/8/02 through 8/30/02 denied based upon "U".

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$650.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20-days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. Tramadol, Topamax, Celebrex, Propn/Apap, rendered on 7/2/02 and 8/8/02 through 8/30/02 were found to be medically necessary. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On October 3, 2003, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	DRUG	Billed	Paid	EOB Denial Code	Reference	Rationale
6/7/02	Propn/Apap 100/650 mg #60	\$44.10	\$0.00	T	TWCC Rule 134.502(f) & 134.503 (a-e)	The requester submitted documentation to support delivery of service. Therefore the requester is entitled to reimbursement of the prescribed medication.
6/7/02	Celebrex 200mg #60	\$185.69	\$0.00	T	TWCC Advisory 2002-11	
7/17/02	Propn/Apap 100/650 mg #60	\$118.83	\$0.00	T	Rule 133.1(a)(12)	
8/1/02	Topamax 25mg #60	\$44.10	\$0.00	T		
TOTAL		\$392.72	\$0.00			The requestor is entitled to reimbursement in the amount of \$392.72

## ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20-days of receipt of this order. This Decision and Order is applicable for dates of service 6/7/02 through 8/30/02 in this dispute.

This Order is hereby issued this 19<sup>th</sup> day of January 2004.

Margaret Q. Ojeda  
Medical Dispute Resolution Officer  
Medical Review Division  
MQO/mqo

### NOTICE OF INDEPENDENT REVIEW DECISION

**Date:** September 18, 2003

**RE: MDR Tracking #:** M5-03-2021-01  
**IRO Certificate #:** 5242

\_\_\_ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to \_\_\_ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

\_\_\_ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a Neurosurgeon physician reviewer who is board certified in Neurosurgery and has an ADL Level 2. The Neurosurgeon physician reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

#### **Clinical History**

The medical facts in this case seem to go back to a date of injury \_\_\_\_. There are no records in the packet I received which go back before November 2001. At that time \_\_\_ filed a peer review report on 11/5/01 in which it is noted that the claimant's history dates back perhaps to \_\_\_ when she received an injury at work which may have been aggravated 7/18/95. During that time and up until recently, the claimant has been treated intermittently by \_\_\_, a neurosurgeon, carrying the diagnosis of chronic lumbar radiculopathy, chronic lumbar degenerative disc disease and lumbar facet syndrome. During the dates in question he prescribed for the claimant several medications including Tramadol, Topamax, Celebrex and a form of Darvocet.

#### **Requested Service(s)**

The need for medication on service dates 7/2/02 and 8/8/02 through 8/30/02.

## **Decision**

I disagree with the insurance carrier and find the requested services medically necessary.

## **Rationale/Basis for Decision**

It is my opinion that the medications that \_\_\_ prescribed for this claimant, primarily pain medication and anti-inflammatory medication, are appropriate for her complaints and conditions as he has diagnosed them. While being medically necessary, it is also my opinion that the treatment she is receiving with these medications from \_\_\_ does not relate back to either of the dates of supposed injury. The only records that are available, which include some notes by \_\_\_, indicate that at each of these times she may have suffered soft tissue injury to include contusions and strains, but MRIs taken indicate that she has these very chronic conditions which in all likelihood predated even the first injury but certainly the second injury and are the result of chronic degenerative process that goes along with aging especially in someone who is quite obese. The records do reflect that her weight during this time was in the region of 300 pounds.

Therefore, I agree with \_\_\_ opinion on 11/5/01 and \_\_\_ opinion that the need for her medication is not related to either of the previous injuries but, in my opinion, they are appropriate for the conditions that she carries.

The basis for my decision is that it is unrealistic to believe someone who has chronic disease in the lumbar spine from ordinary life activity and magnified by obesity would continue to have the residual of soft tissue injuries as far back as \_\_\_ or even \_\_\_.